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SUBJECT Senator Cohen Discusses Robert Gates' Confirmation

SCOTT SIMON: The Senate Intelligence Committee held two days of hearings this week on the nomination of Acting Director Robert Gates to succeed William Casey as Director of the Central Intelligence Agency. Weekend Edition Washington Correspondent Daniel Schorr attended the hearings, and later talked with the Committee's Vice Chairman, Republican Senator William Cohen of Maine.

✓ DANIEL SCHORR: The confirmation of a CIA Director is one of those rare occasions when the Intelligence Committee meets in public. And these hearings revealed accumulated tension and frustration over covert activities about which Congress had been left in the dark.

I asked Senator Cohen about that.

SENATOR WILLIAM COHEN: I think that's where the difficulty came in, as far as Mr. Gates was concerned. He was basically trying to walk a fine line when the members wanted a much more broad declaration of his activities and the fact that he didn't take certain actions once he became aware of the possible diversion of funds back in early '86 -- or late '86, I should say, in October of '86. And that's the reason why the frustration was demonstrated by members of the committee. They wanted much more of a declaration of his failure to take certain action, or his deliberate walking away from certain information for fear that it might in fact involved the Agency.

SCHORR: Are you satisfied with what he said, in the end?

SENATOR COHEN: Well, not entirely. But I try to step

back a bit and put myself in his position. He had been confirmed as Deputy Director in the Spring of 1986. A covert action program had been approved by the President of the United States, had been in operation and in effect for a number of months prior to his becoming actively engaged in the program or aware of the program. And so I think it was rather difficult for him, as the new boy on the block, to suddenly push Mr. Casey aside, if in fact he could do that, to push the President aside, and then walk up to the committee and declare that they should be notified.

We would like to have had that take place. But I am not prepared to hold him to a standard that if he were in fact the Director, had been in on the program from the very beginning and had participated in its planning and recommendation and execution, I think he would be in a great deal more difficulty than he is.

SCHORR: Let me ask you a larger question, not directly connected with Gates as a person. Can you expect an intelligence professional whose whole training has been in keeping secrets and using deception, when necessary, to tell you the truth?

SENATOR COHEN: I think we can.

Basically, this individual has, I believe, as a result of his 20 years of experience working within the community as such, obviously has a very deep commitment to this country and to the intelligence community. And I think that as a result of this experience -- and I mentioned this during the course of the proceedings. One of the very beneficial effects of having a public hearing of this nature, to show the kind of intense passion that is felt by members of Congress about our obligation and about what we believe to be the Executive Branch's obligation under the law, is to remind people of the need to adhere to the rule of law.

So, I think it was a very chastening experience. I think it reminded people within the Executive Branch, even though they have to operate in the dark, they nonetheless have to operate under the rule of law.

And so I would expect that any individual who'll be named to that position and confirmed would have to, I think, take into account the deep feeling on the part of the Congress about the need to comply with the rule of law.

SCHORR: Well, a deep feeling in the Congress. For years the Congress has been trying to get a handle on that shadowy clandestine world out there, and they keep coming back and turning your own devices against you. You came up with the idea that the President would have to make a finding and that

you'd find out through the finding what he was up to. Then he made a finding that it should be kept secret from you. So he turned his findings against you.

Are you ever going to get a handle on it?

SENATOR COHEN: Well, I don't believe that we can ever write rules of law or weave a web of statutory regulations or executive regulations that will insulate the Congress or the country against abuses of that law. We cannot write rules so rigid that it totally precludes any flexibility on the part of the President. What we have to try and do is say, yes, the President is entitled to the benefit of some flexibility. But that flexibility should not be construed as being license.

There's no check against that, no absolute check, other than a free press, the potential for exposure of the abuse, and the resulting condemnation of the act, and even paralysis of the presidency, that will follow if such a practice were continued.

I think the members of Congress are trying to be at least understanding of the kind of exigencies with which a President could be faced in the future. We can get burned and we have been burned twice...

SCHORR: And maybe you will be burned again.

SENATOR COHEN: And we may be burned again in the future. But it's not only members of Congress being burned, it's the presidency itself which is being jeopardized. And that is a very heavy responsibility for any President to bear. And I think that President Reagan is certainly frustrated. He believes he acted with good cause, good intentions, and now can't seem to fathom why the uproar over the sale of the arms, and indeed the diversion itself.

So I think that when such an event takes place and the abuse or the misdeed is reported, then I think it's not just members of Congress who suffer, but the country suffers. And I think that any President has to be sensitive to that in the future. And I think we all learn a lesson from this.

SCHORR: As Senator Cohen indicated, Gates is not yet home free as the new CIA chief. The Intelligence Committee's vote on his confirmation has been delayed until after the release of the Tower Commission report, not scheduled for next Thursday.

Yesterday a new Gates problem was revealed: the report of his involvement, as head of intelligence analysis, in an aborted 1985 plan for an American-Egyptian invasion of Libya.